

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF GARY E.) APPEAL NOS. 07-A-2432
AND JOYCE A. HAMILTON from the decision of the) AND 07-A-2433
Board of Equalization of Owyhee County for tax year) FINAL DECISION
2007.) AND ORDER

RESIDENTIAL PROPERTY APPEALS

THESE MATTERS came on for consolidated hearing December 18, 2007 in Murphy, before Hearing Officer Steven Wallace.¹ Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Gary E. Hamilton appeared at hearing. Assessor Brett Endicott and Appraiser Ted Sherburn appeared for Respondent Owyhee County. These appeals are taken from a decision of the Owyhee County Board of Equalization denying the protests of the valuation for taxing purposes of property described as Parcel Nos. RP005600020030A and RP00560002004CA.

The issue on appeal is the market value of residential property.

The decision of the Owyhee County Board of Equalization is modified in part and affirmed in part.

FINDINGS OF FACT

The subject property is two contiguous lot areas (parcels) totaling 1.012 acres. One lot has .91 acres and is improved with a residence. The other parcel is a thin strip of 15 feet that cannot be built on. Appellants acquired this thin strip parcel separately. The subject property is located in a subdivision (Sky Park) that borders the Snake River and has a private airstrip. The subject property is situated next to the runway, but not fronting on the river. The subject property and other properties in the subdivision enjoy access to a common area along the

¹ At hearing, the Board took official notice of the hearing record made in Appeal No. 07-A-2437.

shoreline, as well as access to the runway.

Following is a chart depicting the parties' respective values for the subject property. Only the land component is in dispute. Taxpayers' land values are taken from Appellants' Exhibit No. 1, page 6.

Parcel No. RP005600020030A

	Land	Improvement	Total
County	\$127,000	\$283,559	\$410,559
Taxpayers	\$83,839	\$283,559	\$367,398

Parcel No. RP00560002004CA

	Land	Improvement	Total
County	\$15,000	n/a	\$15,000
Taxpayers	\$9,397	n/a	\$5,000

Appellants primarily based the land values on two (2) sales of property within the Sky Park subdivision. Both sales involved improved property and occurred in mid-2006. To isolate the underlying land value, the assessed value of the improvements were deducted from the sale prices. The sales then indicated \$1.75 and \$2.53 per square foot, for land sizes of 1.18 and 1.23 acres respectively. The latter sale was listed on the open market through a realtor service. The first sale was consummated by oral agreement and involved a hanger, but no separate residence. Appellant presented a time-adjusted average of the two sale rates. The average was \$2.35 per square foot and a 10% adjustment was deducted for negative value factors inherent to Sky Park and the subject property. A list of 11 negatives was provided. A few examples included: adjacent to an active runway, adjacent to a State highway, and adjacent to a public camping, picnic and swimming area. The smaller parcel was further adjusted from \$9,397 to \$5,000 in recognition of its unique restrictions on development and use.

Certain equity concerns were also raised and discussed at hearing. Appellants made multiple comparisons between the assessed value of the subject land and other property assessments, including homesites not located in subdivisions.

The County noted a number of legal standards applicable to property assessment. One such reference was to Idaho Code § 63-205(1) which requires all real property subject to assessment be appraised at market value as of 12:01 a.m. of the first day of January in the current tax year. Further information was then shared on how County assessments are measured by the State Tax Commission (STC) for compliance with the current market value standard.

In 2006, the County was notified by the STC that its subdivision ground was significantly out of compliance (under-assessed). The median assessment level for the subdivision lot sales studied was 63% of market value. The County proceeded in 2007 to review all subdivision values. Subject's assessment was increased significantly, most particularly with respect to the land component. The 2007 assessed values of subdivision lots were tested against new sales prices and the median assessment ratio was reported to be at 93%. Within Sky Park, two residences that sold in 2006 indicated assessment ratios of 86% and 101% before any time adjustment.

Although there were a large number of sales countywide, it was reported certain areas in Sky Park had insufficient sales to develop land values without reference to other high-amenity subdivisions. The Assessor studied subdivision sales separately from non-subdivided land categories. Due to rapid market appreciation, sale prices were time-adjusted before use in the 2007 reappraisal and trending. A STC program was used to determine the time adjustment factors. Three (3) repeat sales from within Sky Park indicated the following time adjustments

7.06%, 7.59% and .72% per month. The test period ran from the last quarter of 2005 in the first instance, to halfway through 2007 in the last instance. The first instances concerned raw land and the estimated time adjustment for land was determined to be 7.33% per month. The rate for adjusting improved sale prices was determined to be .72%.

The 2007 land values within Sky Park, pertaining to subject and similarly situated properties, were characterized as site values. The subdivision was divided into three (3) areas: 1) riverfront, 2) subject's location between the runway and the highway, and 3) property across the highway. Different lot values were established for each area. The subject homesite lot appears to be a relatively small lot with perhaps less utility, this seems to be supported by Appellants' purchase of the second parcel.

Most available sales were for Sky Park lots located across the highway. The homesites averaged about \$91,000 each. Subject's block had a lot and hanger sale, which after time adjustment and removal of the improvement's value, indicated \$96,000 for the site value. Two other abstractions with residences indicated site values of \$124,000 and \$151,000. The lots' assessed values were not based on a rate per square foot as calculated by Appellants. On the square foot basis, the subject lot with the residence was assessed at \$127,000 or a per square foot rate of \$3.20.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The subject property (one of the two parcels) is improved residential property. However

the parties largely focus their respective value cases on the underlying land value. Residential land is typically valued by reference to the recent selling prices of “like” property. Appraisal adjustments are made for differences between the selling property and the subject as warranted. Subject’s orientation to the Snake River and a private runway are rather unique. Sky Park is reportedly the only subdivision in the area with lots so situated. The determination of lot values in Sky Park was complicated by a limited number of good, recent comparable sales in a marketplace with rapidly appreciating prices. There were no bare lot sales in subject’s area of Sky Park.

The Taxpayers looked in part to other assessments in determining and supporting the subject land’s fair market value. The Board did not find these assessed values were good evidence of market value, nor did they support an equity adjustment. Also considered and of chief importance was price information from two (2) timely 2006 sales within Sky Park. Both sales had improvements which required sizable adjustments to isolate the land values. Before time adjustment for date of sale, the sales suggested two widely divergent values of \$1.75 and \$2.53 per square foot or about \$90,000 and \$135,000 respectively. Appellants reconciled the wide value spread by averaging. The Board is not persuaded averaging was appropriate. Certainly it was not the only way to consider the question of value.

After averaging, Appellants then made a further adjustment for negatives. The Board found this had the effect of double-counting the influence of the alleged negatives. The value impact of these factors, all inherent to the subdivision, would already be fully reflected in sale prices from the subdivision. To adjust further for the same factors would be counting the same impact twice.

The subject land’s assessed value on a per square foot basis is considerably higher than

the rate indicated by the realtor listing sale. The subject land is about 25% smaller in total size. The price evidence from this sale was considered more probative of market value than the word of mouth sale. The homesite lot's assessed value of \$127,000 was less than Appellants' abstracted site value for the realtor sale at \$135,485 (before time adjustment.) Respondent did not rely on just this sale, but considered a number of other sales in Sky Park, plus land price information from other high-amenity subdivisions. Attention was given to time adjusting all sale information for date of sale. Appellants ultimately considered this too, but not as thoroughly.

The consideration of more information does not in itself always mean a better supported case. Taxpayers' value was supported by recent proximate sales of similar property. However in this instance, the Board finds Appellants have not proven error by a preponderance of the evidence. Idaho Code § 63-511(4).

The Board questioned the impact on value a homesite's lot size might have. Subject's homesite lot was relatively small. It did have a lesser assessed value than larger sites and also was assessed for less than the indicated prices of larger lots. On total we found insufficient evidence to suggest a lower value than that assessed. After considering the available evidence, the assessed lot value of the subject homesite was found to be the better supported estimate. Therefore the Board will affirm this value from the Owyhee County Board of Equalization.

The County acknowledged the sliver parcel was not individually or specially valued with reference to its unique limitations. Appellants' value did take this important factor into consideration. The \$5,000 value is consequently considered the more reasonable estimate. The Board will recognize the value opinion placed on this subject by Appellants.

DICTA

In closing statements, Appellants mentioned certain concerns with current tax policy and

other legislation matters. Consideration of this information is outside the Board's limited jurisdiction. The matters raised would appear to be the responsibility of tax policy makers such as State Legislators.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Owyhee County Board of Equalization concerning the subject parcels be, and the same hereby is, MODIFIED on Parcel No. RP00560002004CA to reflect a value reduction to \$5,000, and AFFIRMED as to Parcel No. RP005600020030A.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

MAILED April 30, 2008